



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR 07 2017

OFFICE OF  
CONGRESSIONAL AND  
INTERGOVERNMENTAL  
RELATIONS

The Honorable Jason Chaffetz  
Chairman  
Committee on Oversight and Government Reform  
United States House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

Thank you for your letter of January 26, 2017, to the U.S. Environmental Protection Agency Acting Administrator Catherine McCabe, requesting copies of certain documents referring to two employees that have reported retaliation. Administrator Pruitt asked that I respond on his behalf.

As discussed with your staff, we are currently focusing on a single employee currently in the EPA's Region 6 Office [REDACTED]. Enclosed please find an initial set of responsive documents.

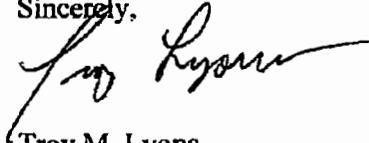
Please note that portions of the responsive documents contain internal deliberations, attorney-client communications, or attorney work product of an Executive Branch agency, the EPA, and, as such, raise a confidentiality interest. In order to identify specific documents in which the EPA has a confidentiality interest, we have added a watermark to these documents that reads "Deliberative or Privileged Document of the U.S. EPA; Disclosure Authorized Only to Congress for Oversight Purposes." Each document contains a footnote stating that privilege in this context may include, but is not limited to, attorney-client privilege or work-product privileged information. Through this accommodation, the EPA does not waive any confidentiality interests in these documents or similar documents in other circumstances. The EPA respectfully requests that the Committee and staff protect the documents and the information contained in them from further dissemination. Should the Committee determine that its legislative mandate requires further distribution of this confidential information outside the Committee, we request that such need first be discussed with the agency to help ensure the Executive Branch's confidentiality interests are protected to the fullest extent possible.

You will also notice that some of the documents contain redactions of nonresponsive or personal privacy information. We redacted this information in a manner that does not obscure the identity of any individuals involved in the relevant communications.

As communicated to your staff, we will provide additional responsive documents on a rolling basis as we review them.

Again, thank you for your letter. If you have any further questions, you may contact me or your staff may contact Kyle Aarons in the EPA's Office of Congressional and Intergovernmental Relations at [Aarons.Kyle@epa.gov](mailto:Aarons.Kyle@epa.gov) or (202) 564-7351.

Sincerely,

A handwritten signature in cursive script, appearing to read "Troy Lyons", written in dark ink.

Troy M. Lyons  
Associate Administrator

Enclosures

cc: The Honorable Elijah J. Cummings  
Ranking Member

# Congress of the United States

## House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

2157 RAYBURN HOUSE OFFICE BUILDING

WASHINGTON, DC 20515-6143

Macomber (202) 225-5074  
Macomber (202) 225-5051  
<http://oversight.house.gov>

February 7, 2017

Ms. Catherine McCabe  
Environmental Protection Agency  
1200 Pennsylvania Avenue, N.W.  
Washington, D.C. 20460

Dear Acting Administrator McCabe:

We are writing to request information about your agency's use of nondisclosure agreements. Recently there have been news reports that guidance in some agencies raised concerns regarding the implications for federal employees' personal communications including, in some instances, communications with Congress.

Starting in 1988, Senator Chuck Grassley introduced an amendment known as the "anti-gag" provision to the Treasury, Postal Service and General Government Appropriations Act.<sup>1</sup> This provision has been included in appropriations laws since 1988, most recently in the Consolidated Appropriations Act of 2016.<sup>2</sup> In 2012, Congress unanimously passed the Whistleblower Protection Enhancement Act (WPEA), which codified the requirement and made its violation a prohibited personnel practice.<sup>3</sup>

That Act requires every executive branch nondisclosure policy, form, or agreement to contain the following explicit statement:

These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities, created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.<sup>4</sup>

---

<sup>1</sup> Pub. L. No. 100-440.

<sup>2</sup> Pub. L. No. 114-113, as continued by Pub. L. No. 114-254.

<sup>3</sup> 5 U.S.C. § 2302(b)(13).

<sup>4</sup> *Id.*

Ms. Catherine McCabe

Page 2

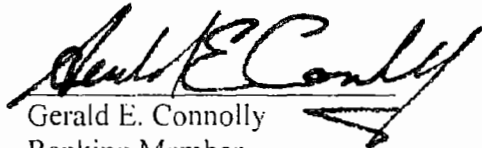
The law also requires any agency using a nondisclosure policy, form, or agreement to post the statement on the agency website along with relevant Executive Orders and statutes.

We want to ensure that this law is fully implemented. Accordingly, please provide the following information by February 20, 2017:

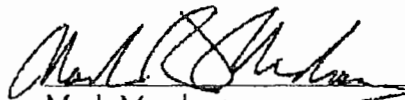
- (1) all forms, policies, instructions, or agreements provided to employees or otherwise implemented since January 1, 2016 through the present, that reference communications with Congress, including those with either non-disclosure or non-disparagement provisions, and including all modifications, rescissions, or other changes;
- (2) all forms, policies, instructions, or agreements that purport to limit the ability of current or former employees to communicate with Congress, whether explicitly or as a part of a general restriction on communications; and
- (3) a detailed statement of all efforts that your department has taken to post the "anti-gag" provision on its website, as well as relevant Executive Orders and statutes.

Please contact Tristan Leavitt with the Committee majority staff at (202) 225-5074 or Courtney French with the Committee minority staff at (202) 225-5051 with any questions about this matter. Thank you for your prompt attention to this request.

Sincerely,



Gerald E. Connolly  
Ranking Member  
Subcommittee on Government Operations



Mark Meadows  
Chairman  
Subcommittee on Government Operations



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AL  
AL-17-000-4064  
3-15-17

Page 15

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Mark Meadows  
Chairman  
Subcommittee on Government Operations  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

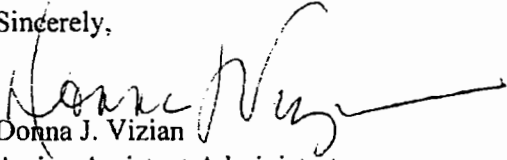
Thank you for your letter of February 7, 2017, regarding the U.S. Environmental Protection Agency's use of nondisclosure agreements.

Attached to this letter, please find some illustrative nondisclosure agreements used by the EPA since January 1, 2016, which are responsive to questions (1) and (2) as outlined in your letter. Furthermore, in response to question (3), below are various links posted by the Agency on its public website with respect to Whistleblower Protection Enhancement Act protections.

- <https://www.epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa-employees>
- <https://www.epa.gov/office-inspector-general/epa-oig-hotline#protection>
- <https://www.epa.gov/office-inspector-general/poster-whistleblower-protection-ombudsman-epa-oig>

Thank you again for your letter. If you have further questions, please contact me or your staff may contact Kyle Aarons in the EPA's Office of Congressional and Intergovernmental Relations at [Aarons.Kyle@epa.gov](mailto:Aarons.Kyle@epa.gov) or (202) 564-7351.

Sincerely,

  
Donna J. Vizian  
Acting Assistant Administrator

Enclosures



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

15

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

The Honorable Gerald E. Connolly  
Ranking Member  
Subcommittee on Government Operations  
Committee on Oversight and Government Reform  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Representative Connolly:

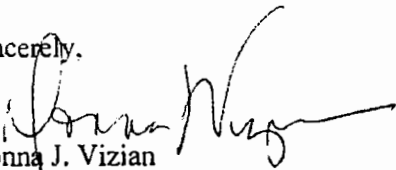
Thank you for your letter of February 7, 2017, regarding the U.S. Environmental Protection Agency's use of nondisclosure agreements.

Attached to this letter, please find some illustrative nondisclosure agreements used by the EPA since January 1, 2016, which are responsive to questions (1) and (2) as outlined in your letter. Furthermore, in response to question (3), below are various links posted by the Agency on its public website with respect to Whistleblower Protection Enhancement Act protections.

- <https://www.epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa-employees>
- <https://www.epa.gov/office-inspector-general/epa-oig-hotline#protection>
- <https://www.epa.gov/office-inspector-general/poster-whistleblower-protection-ombudsman-epa-oig>

Thank you again for your letter. If you have further questions, please contact me or your staff may contact Kyle Aarons in the EPA's Office of Congressional and Intergovernmental Relations at [Aarons.Kyle@epa.gov](mailto:Aarons.Kyle@epa.gov) or (202) 564-7351.

Sincerely,

  
Donna J. Vizian  
Acting Assistant Administrator

Enclosures

Apply appropriate classification level and any control markings (if applicable) when filled in.

## (U) SENSITIVE COMPARTMENTED INFORMATION NONDISCLOSURE AGREEMENT

An Agreement between

and the United States.

(Name - Printed or Typed)

1. (U) Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to information or material protected within Special Access Programs, hereinafter referred to in this Agreement as Sensitive Compartmented Information (SCI). I have been advised that SCI involves or derives from intelligence sources or methods and is classified or is in process of a classification determination under the standards of Executive Order 13526 or other Executive order or statute. I understand and accept that by being granted access to SCI, special confidence and trust shall be placed in me by the United States Government.
2. (U) I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of SCI, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information or material have been approved for access to it, and I understand these procedures. I understand that I may be required to sign subsequent agreements upon being granted access to different categories of SCI. I further understand that all my obligations under this agreement continue to exist whether or not I am required to sign such subsequent agreements.
3. (U) I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of SCI by me could cause irreparable injury to the United States or be used to advantage by a foreign nation. I hereby agree that I will never divulge anything marked as SCI or that I know to be SCI to anyone who is not authorized to receive it without prior written authorization from the United States Government department or agency (hereinafter Department or Agency) that last authorized my access to SCI. I understand that it is my responsibility to consult with appropriate management authorities in the Department or Agency that last authorized my access to SCI, whether or not I am still employed by or associated with that Department or Agency or a contractor thereof, in order to ensure that I know whether information or material within my knowledge or control that I have reason to believe might be, or related to or derived from SCI, is considered by such Department or Agency to be SCI. I further understand that I am also obligated by law and regulation not to disclose any classified information or material in an unauthorized fashion.
4. (U) In consideration of being granted access to SCI and of being assigned or retained in a position of special confidence and trust requiring access to SCI, I hereby agree to submit for security review by the Department or Agency that last authorized my access to such information or material, any writing or other preparation in any form, including a work of fiction, that contains or purports to contain any SCI or description of activities that produce or relate to SCI or that I have reason to believe are derived from SCI, that I contemplate disclosing to any person not authorized to have access to SCI or that I have prepared for public disclosure. I understand and agree that my obligation to submit such preparations for review applies during the course of my access to SCI and thereafter, and I agree to make any required submissions prior to discussing the preparation with, or showing it to, anyone who is not authorized to have access to SCI. I further agree that I will not disclose the contents of such preparation with, or show it to, anyone who is not authorized to have access to SCI until I have received written authorization from the Department or Agency that last authorized my access to SCI that such disclosure is permitted.
5. (U) I understand that the purpose of the review described in paragraph 4 is to give the United States a reasonable opportunity to determine whether the preparation submitted pursuant to paragraph 4 sets forth any SCI. I further understand that the Department or Agency to which I have made a submission will act upon it, coordinating within the Intelligence Community when appropriate, and make a response to me within a reasonable time, not to exceed 30 working days from date of receipt.
6. (U) I have been advised that any breach of this Agreement may result in my termination of my access to SCI and removal from a position of special confidence and trust requiring such access, as well as the termination of my employment or other relationships with any Department or Agency that provides me with access to SCI. In addition, I have been advised that any unauthorized disclosure of SCI by me may constitute violations of United States criminal laws, including provisions of Sections 793, 794, 798, and 952, Title 18, United States Code, and of Section 783(b), Title 50, United States Code. Nothing in this agreement constitutes a waiver by the United States of the right to prosecute me for any statutory violation.
7. (U) I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement. I have been advised that the action can be brought against me in any of the several appropriate United States District Courts where the United States Government may elect to file the action. Court costs and reasonable attorney's fees incurred by the United States Government may be assessed against me if I lose such action.
8. (U) I understand that all information to which I may obtain access by signing this Agreement is now and will remain the property of the United States Government unless and until otherwise determined by an appropriate official or final ruling of a court of law. Subject to such determination, I do not now, nor will I ever, possess any right, interest, title, or claim whatsoever to such information. I agree that I shall return all materials that may have come into my possession or for which I am responsible because of such access, upon demand by an authorized representative of the United States Government or upon the conclusion of my employment or other relationship with the United States Government entity providing me access to such materials. If I do not return such materials upon request, I understand this may be a violation of Section 793, Title 18, United States Code.
9. (U) Unless and until I am released in writing by an authorized representative of the Department or Agency that last provided me with access to SCI, I understand that all conditions and obligations imposed on me by this Agreement apply during the time I am granted access to SCI, and at all times thereafter.
10. (U) Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect. This Agreement concerns SCI and does not set forth such other

Apply appropriate classification level and any control markings (if applicable) when filled in.

conditions and obligations not related to SCI as may now or hereafter pertain to my employment by or assignment or relationship with the Department or Agency.

11. (U) I have read this Agreement carefully and my questions, if any, have been answered to my satisfaction. I acknowledge that the briefing officer has made available Sections 793, 794, 798 and 952 of Title 18, United States Code, and Section 783(b) of Title 50, United States Code, and Executive Order 13526, as amended, so that I may read them at this time, if I so choose.

12. (U) I hereby assign to the United States Government all rights, title and interest, and all royalties, remunerations, and emoluments that have resulted, will result, or may result from any disclosure, publication, or revelation not consistent with the terms of this Agreement.

13. (U) These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

14. (U) These restrictions are consistent with and do not supersede conflict with or otherwise alter the employee obligations rights or liabilities created by Executive Order 13526; or any successor thereto, Section 7211 of Title 5, United States Code (governing disclosures to Congress); Section 1034 of Title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosures to Congress by members of the Military); Section 2302(b)(8) of Title 5, United States Code, as amended by the Whistleblower Protection Act (governing disclosure of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), sections 7(c) and 8H of the Inspector General Act of 1978 (5 U.S.C. App.) (relating to disclosures to an inspector general, the inspectors general of the Intelligence Community; and Congress); section 103H(g)(3) of the National Security Act of 1947 (50 U.S.C. 403-3h(g)(3) (relating to disclosures to the inspector general of the Intelligence Community); sections 17(d)(5) and 17(e)(3) of the CIA Act of 1949 (50 U.S.C. 403q(d)(5) and 403q(e)(3)) (relating to disclosures to the Inspector General of the Central Intelligence Agency and Congress); and the statutes which protect agent disclosure which may compromise the national security, including Section 641, 793, 794, 798, and 952 of Title 18, United States Code, and Section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. Section 783(b)). The definitions, requirements, obligations, rights, sanctions and liabilities created by said Executive Order and listed statutes are incorporated into this Agreement and are controlling.

15. (U) This Agreement shall be interpreted under and in conformance with the law of the United States.

16. (U) I make this Agreement without any mental reservation or purpose of evasion.

Signature

Date

The execution of this Agreement was witnessed by the undersigned who accepted it on behalf of the United States Government as a prior condition of access to Sensitive Compartmented Information.

WITNESS and ACCEPTANCE:

Signature

Date

### SECURITY BRIEFING / DEBRIEFING ACKNOWLEDGMENT

(Special Access Programs by Initials Only)

SSN (See Notice Below)

Printed or Typed Name

Organization

#### BRIEF

Date

I hereby acknowledge that I was briefed on the above SCI Special Access Program(s):

Signature of Individual Briefed

#### DEBRIEF

Date

Having been reminded of my continuing obligation to comply with the terms of this Agreement, I hereby acknowledge that I was debriefed on the above SCI Special Access Program(s):

Signature of Individual Briefed

I certify that the briefing presented by me on the above date was in accordance with relevant SCI procedures.

Signature of Briefing/Debriefing Officer

SSN (See notice below)

Printed or Typed Name

Organization (Name and Address)

(U) NOTICE: The Privacy Act, 5 U.S.C. 522a, requires that federal agencies inform individuals, at the time information is solicited from them, whether the disclosure is mandatory or voluntary, by what authority such information is solicited, and what uses will be made of the information. You are hereby advised that authority for soliciting your Social Security Account Number (SSN) is Executive Order 9387, as amended. Your SSN will be used to identify you precisely when it is necessary to 1) certify that you have access to the information indicated above, 2) determine that your access to the information has terminated, or 3) certify that you have witnessed a briefing or debriefing. Although disclosure of your SSN is not mandatory, your failure to do so may impede such certifications or determinations.



## CLASSIFIED INFORMATION NONDISCLOSURE AGREEMENT

### AN AGREEMENT BETWEEN

### AND THE UNITED STATES

*(Name of Individual - Printed or typed)*

1. Intending to be legally bound, I hereby accept the obligations contained in this Agreement in consideration of my being granted access to classified information. As used in this Agreement, classified information is marked or unmarked classified information, including oral communications, that is classified under the standards of Executive Order 13526, or under any other Executive order or statute that prohibits the unauthorized disclosure of information in the interest of national security; and unclassified information that meets the standards for classification and is in the process of a classification determination as provided in sections 1.1, 1.2, 1.3 and 1.4(e) of Executive Order 13526, or under any other Executive order or statute that requires protection for such information in the interest of national security. I understand and accept that by being granted access to classified information, special confidence and trust shall be placed in me by the United States Government.

2. I hereby acknowledge that I have received a security indoctrination concerning the nature and protection of classified information, including the procedures to be followed in ascertaining whether other persons to whom I contemplate disclosing this information have been approved for access to it, and that I understand these procedures.

3. I have been advised that the unauthorized disclosure, unauthorized retention, or negligent handling of classified information by me could cause damage or irreparable injury to the United States or could be used to advantage by a foreign nation. I hereby agree that I will never divulge classified information to anyone unless: (a) I have officially verified that the recipient has been properly authorized by the United States Government to receive it; or (b) I have been given prior written notice of authorization from the United States Government Department or Agency (hereinafter Department or Agency) responsible for the classification of information or last granting me a security clearance that such disclosure is permitted. I understand that if I am uncertain about the classification status of information, I am required to confirm from an authorized official that the information is unclassified before I may disclose it, except to a person as provided in (a) or (b), above. I further understand that I am obligated to comply with laws and regulations that prohibit the unauthorized disclosure of classified information.

4. I have been advised that any breach of this Agreement may result in the termination of any security clearances I hold; removal from any position of special confidence and trust requiring such clearances; or termination of my employment or other relationships with the Departments or Agencies that granted my security clearance or clearances. In addition, I have been advised that any unauthorized disclosure of classified information by me may constitute a violation, or violations, of United States criminal laws, including the provisions of sections 641, 793, 794, 798, \*952 and 1924, title 18, United States Code; \*the provisions of section 783(b), title 50, United States Code; and the provisions of the Intelligence Identities Protection Act of 1982. I recognize that nothing in this Agreement constitutes a waiver by the United States of the right to prosecute me for any statutory violation.

5. I hereby assign to the United States Government all royalties, remunerations, and emoluments that have resulted, will result or may result from any disclosure, publication, or revelation of classified information not consistent with the terms of this Agreement.

6. I understand that the United States Government may seek any remedy available to it to enforce this Agreement including, but not limited to, application for a court order prohibiting disclosure of information in breach of this Agreement.

7. I understand that all classified information to which I have access or may obtain access by signing this Agreement is now and will remain the property of, or under the control of the United States Government unless and until otherwise determined by an authorized official or final ruling of a court of law. I agree that I shall return all classified materials which have, or may come into my possession or for which I am responsible because of such access: (a) upon demand by an authorized representative of the United States Government; (b) upon the conclusion of my employment or other relationship with the Department or Agency that last granted me a security clearance or that provided me access to classified information; or (c) upon the conclusion of my employment or other relationship that requires access to classified information. If I do not return such materials upon request, I understand that this may be a violation of sections 793 and/or 1924, title 18, United States Code, a United States criminal law.

8. Unless and until I am released in writing by an authorized representative of the United States Government, I understand that all conditions and obligations imposed upon me by this Agreement apply during the time I am granted access to classified information, and at all times thereafter.

9. Each provision of this Agreement is severable. If a court should find any provision of this Agreement to be unenforceable, all other provisions of this Agreement shall remain in full force and effect.

10. These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

*(Continue on reverse.)*

11. These restrictions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive Order No. 13526 (75 Fed. Reg. 707), or any successor thereto section 7211 of title 5, United States Code (governing disclosures to Congress); section 1034 of title 10, United States Code, as amended by the Military Whistleblower Protection Act (governing disclosure to Congress by members of the military); section 2302(b) (8) of title 5, United States Code, as amended by the Whistleblower Protection Act of 1989 (governing disclosures of illegality, waste, fraud, abuse or public health or safety threats); the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents); sections 7(c) and 8H of the Inspector General Act of 1978 (5 U.S.C. App.) (relating to disclosures to an inspector general, the inspectors general of the Intelligence Community, and Congress); section 103H(g)(3) of the National Security Act of 1947 (50 U.S.C. 403-3h(g)(3)) (relating to disclosures to the inspector general of the Intelligence Community); sections 17(d)(5) and 17(e)(3) of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403g(d)(5) and 403q(e)(3)) (relating to disclosures to the Inspector General of the Central Intelligence Agency and Congress); and the statutes which protect against disclosure that may compromise the national security, including sections 641, 793, 794, 798, \*952 and 1924 of title 18, United States Code, and \*section 4 (b) of the Subversive Activities Control Act of 1950 (50 U.S.C. section 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by said Executive Order and listed statutes are incorporated into this agreement and are controlling.

12. I have read this Agreement carefully and my questions, if any, have been answered. I acknowledge that the briefing officer has made available to me the Executive Order and statutes referenced in this agreement and its implementing regulation (32 CFR Part 2001, section 2001.80(d)(2)) so that I may read them at this time, if I so choose.

\* NOT APPLICABLE TO NON-GOVERNMENT PERSONNEL SIGNING THIS AGREEMENT.

SIGNATURE	DATE	SOCIAL SECURITY NUMBER (See Notice below)
ORGANIZATION (IF CONTRACTOR, LICENSEE, GRANTEE OR AGENT, PROVIDE: NAME, ADDRESS, AND, IF APPLICABLE, FEDERAL SUPPLY CODE NUMBER) (Type or print)		

WITNESS		ACCEPTANCE	
THE EXECUTION OF THIS AGREEMENT WAS WITNESSED BY THE UNDERSIGNED.		THE UNDERSIGNED ACCEPTED THIS AGREEMENT ON BEHALF OF THE UNITED STATES GOVERNMENT.	
SIGNATURE	DATE	SIGNATURE	DATE
NAME AND ADDRESS (Type or print)		NAME AND ADDRESS (Type or print)	

### SECURITY DEBRIEFING ACKNOWLEDGEMENT

I reaffirm that the provisions of the espionage laws, other federal criminal laws and executive orders applicable to the safeguarding of classified information have been made available to me; that I have returned all classified information in my custody; that I will not communicate or transmit classified information to any unauthorized person or organization; that I will promptly report to the Federal Bureau of Investigation any attempt by an unauthorized person to solicit classified information, and that I (have) (have not) (strike out inappropriate word or words) received a security debriefing.

SIGNATURE OF EMPLOYEE	DATE
NAME OF WITNESS (Type or print)	SIGNATURE OF WITNESS

**NOTICE:** The Privacy Act, 5 U.S.C. 552a, requires that federal agencies inform individuals, at the time information is solicited from them, whether the disclosure is mandatory or voluntary, by what authority such information is solicited, and what uses will be made of the information. You are hereby advised that authority for soliciting your Social Security Number (SSN) is Public Law 104-134 (April 26, 1996). Your SSN will be used to identify you precisely when it is necessary to certify that you have access to the information indicated above or to determine that your access to the information indicated has been terminated. Furnishing your Social Security Number, as well as other data, is voluntary, but failure to do so may delay or prevent you being granted access to classified information.

Cooperator Name - NDA #

Date Last Saved: March 25, 2015

## CONFIDENTIALITY AGREEMENT

### Regarding Information Disclosed To the U.S. Environmental Protection Agency

This AGREEMENT is made and entered into by and between \_\_\_\_\_  
[full name of company, association, etc.] (also provide abbreviated name, e.g., Battelle instead of  
"Battelle Memorial Institute", or initials, e.g. "GM" instead of "General Motors"("XXX")),  
having a principal place of business at \_\_\_\_\_ and the  
\_\_\_\_\_ [laboratory or program office] on behalf of the U.S. Environmental  
Protection Agency ("EPA" or the "Agency")(together, the "PARTIES").

### WITNESSETH:

WHEREAS, The parties to this AGREEMENT are engaged in \_\_\_\_\_  
[describe activity](the "PROJECT");

WHEREAS, in the course of the PROJECT, XXX intends to voluntarily disclose to EPA  
\_\_\_\_\_ [describe information] which may reveal patentable subject matter, trade  
secrets, know-how, business methods or other proprietary information, or which is otherwise  
confidential information related to XXX's business;

AND WHEREAS, XXX claims that this information is confidential business information  
("CBI").

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions  
herein contained, the PARTIES agree as follows:

(1) Disclosures to EPA. XXX will clearly and plainly mark as "CBI" or  
"CONFIDENTIAL" any written information it submits to EPA as part of this PROJECT and that  
it wishes to be treated as CBI in accordance with the terms of this AGREEMENT. If XXX  
discloses information to EPA which XXX orally claims as CBI, XXX will notify EPA in writing,  
within 30 days after the disclosure, if it wants such information treated in accordance with this  
AGREEMENT.

(2) Use of CBI. EPA agrees that, to the extent permitted by law, neither the Agency nor  
any of its branches, divisions, employees, independent contractors or other persons or  
organizations over which it has control will, at any time during or after this PROJECT, directly or  
indirectly use any claimed CBI disclosed to EPA for the PROJECT for any purpose not associated

with the PROJECT.

(3) Public Disclosure. EPA agrees not to publicly disclose the information claimed as CBI unless such disclosure is required by law, including the Freedom of Information Act and EPA's regulations at 40 C.F.R. Part 2, Subpart B.

(4) Affect of Other Disclosure Authorities. The PARTIES acknowledge that EPA's obligations under this AGREEMENT are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling."

(5) Information that is Not Considered to be CBI under Applicable Law. EPA's obligations under this AGREEMENT do not extend to any information that:

- a. can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of any possible disclosure;
- b. can be demonstrated to have been in EPA's possession or readily available to EPA from another source prior to any possible disclosure;
- c. becomes part of the public domain or publicly known by publication or otherwise, provided such availability is not due to any unauthorized act of EPA;
- d. is obtained by EPA for enforcement purposes or other purposes that are independent of this PROJECT;
- e. XXX agrees to disclose for any purpose, including promotion of this PROJECT.

(6) Binding Effect. This AGREEMENT shall be binding on the PARTIES and upon their respective executors, administrators, legal representatives, successors and assigns.

(7) Governing Law. The construction, interpretation, validity, performance and effect of this AGREEMENT for all purposes shall be governed by the laws applicable to the U.S. Government.

(8) Effective Date. This AGREEMENT shall enter into force as of the date of the last signature of the PARTIES.

U.S. Environmental Protection Agency

XXX

By \_\_\_\_\_  
Name  
Title

By \_\_\_\_\_  
Name  
Title

Date: \_\_\_\_\_

Date: \_\_\_\_\_

## CONFIDENTIALITY AGREEMENT

Between the U.S. Environmental Protection Agency and [full name of company, association, etc.]

This AGREEMENT is made and entered into by and between \_\_\_\_\_ [full name of company, association, etc.] (also provide abbreviated name, e.g., Battelle instead of "Battelle Memorial Institute", or initials, e.g., "GM" instead of "General Motors" ("XXX")), having a principal place of business at \_\_\_\_\_ and the \_\_\_\_\_ [laboratory or program office] on behalf of the U.S. Environmental Protection Agency ("EPA" or the "Agency") (together, the "PARTIES").

### WITNESSETH:

WHEREAS, The parties to this AGREEMENT are engaged in \_\_\_\_\_ [describe activity] (the "PROJECT");

WHEREAS, in the course of the PROJECT, the Parties intend to voluntarily disclose to each other \_\_\_\_\_ [describe information] which may reveal patentable subject matter, trade secrets, know-how, business methods or other proprietary information, or which is otherwise confidential information of the Parties

AND WHEREAS, the Party disclosing such information ("DISCLOSING PARTY") may claim that this information is confidential business information ("CBI") that should be treated accordingly by the party receiving the information ("RECEIVING PARTY").

NOW THEREFORE, in consideration of the mutual promises, covenants and conditions herein contained, the PARTIES agree as follows:

(1) Disclosures. DISCLOSING PARTY will clearly and plainly mark as "CBI" or "CONFIDENTIAL" any written information it submits to RECEIVING PARTY as part of this PROJECT and that it wishes to be treated as CBI in accordance with the terms of this AGREEMENT. If DISCLOSING PARTY orally claims information as CBI, DISCLOSING PARTY will notify RECEIVING PARTY in writing, within 30 days after the disclosure, if it wants such information treated in accordance with this AGREEMENT.

(2) Use of CBI. RECEIVING PARTY agrees that, to the extent permitted by law, neither the RECEIVING PARTY nor any of its branches, divisions, employees, independent contractors or other persons or organizations over which it has control will, at any time during or after this PROJECT, directly or indirectly use any claimed CBI disclosed to RECEIVING PARTY for the PROJECT for any purpose not associated with the PROJECT.

(3) Public Disclosure. RECEIVING PARTY agrees not to publicly disclose the information claimed as CBI unless such disclosure is required by law, including the Freedom of Information Act and EPA's regulations at 40 C.F.R. Part 2, Subpart B.

(4) Effect of Other Disclosure Authorities. The PARTIES acknowledge that EPA's obligations under this AGREEMENT are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by existing statute or Executive order relating to (1) classified information, (2) communications to Congress, (3) the reporting to an Inspector General of a violation of any law, rule, or regulation, or mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety, or (4) any other whistleblower protection. The definitions, requirements, obligations, rights, sanctions, and liabilities created by controlling Executive orders and statutory provisions are incorporated into this agreement and are controlling.

(5) Information that is Not Considered to be CBI under Applicable Law. RECEIVING PARTY's obligations under this AGREEMENT do not extend to any information that:

- a. can be demonstrated to have been in the public domain or publicly known and readily available to the trade or the public prior to the date of any possible disclosure;
- b. can be demonstrated to have been in RECEIVING PARTY's possession or readily available to RECEIVING PARTY from another source prior to any possible disclosure;
- c. becomes part of the public domain or publicly known by publication or otherwise, provided such availability is not due to any unauthorized act of RECEIVING PARTY;
- d. is obtained by EPA for enforcement purposes or other purposes that are independent of this PROJECT;
- e. DISCLOSING PARTY agrees to disclose for any purpose, including promotion of this PROJECT.

(6) Binding Effect. This AGREEMENT shall be binding on the PARTIES and upon their respective executors, administrators, legal representatives, successors and assigns.

(7) Governing Law. The construction, interpretation, validity, performance and effect of this AGREEMENT for all purposes shall be governed by the laws applicable to the U.S. Government.

(8) Effective Date. This AGREEMENT shall enter into force as of the date of the last signature of the PARTIES.

U.S. Environmental Protection Agency  
(XXX PARTY)

By \_\_\_\_\_  
Name  
Title

Date: \_\_\_\_\_

XXX  
(XXX PARTY)

By \_\_\_\_\_  
Name  
Title

Date: \_\_\_\_\_